

Appl. No. : 10/710,913 Confirmation No.: 4912  
Applicant: : Paul McMahan  
Filed: : August 12, 2004  
Title: : Method and System for Managing Interrupts  
: in an Instant Messaging Application  
TC/A.U. : 2443  
Examiner: : Fearer, Mark D.  
:  
Docket No. : RSW920040102US1-11  
Customer No. : 44,870

Mail Stop: AF  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

***REPLY BRIEF IN COMPLIANCE WITH 37 CFR 41.41***

In response to the Examiner's Answer dated as mailed June 25, 2010 this reply brief is being submitted.

**I. Status of Claims**

**A. Status of All Claims**

1. Claims cancelled: 3, 4, 17-19, 22-39,
2. Claims withdrawn from consideration but not cancelled: None
3. Claims objected to: 41-42, 45, 48-49, 53 and 55
4. Claims allowed or confirmed: None
5. Claims rejected: 1, 2, 5-16, 20-21, 40, 43-44, 46-47, 50-52, 54 and 56

**B. Claims on Appeal**

The claims on appeal are: 1, 2, 5-16, 20-21, 40, 43-44, 46-47, 50-52, 54 and 56.

## **II. Grounds of Rejection to be Reviewed on Appeal**

### **A. New Ground(s) of Rejection**

Whether claims 52-56 are unpatentable under 35 USC §101 because the claimed invention is directed to non-statutory subject matter.

### **B. Prior Appeal Brief Grounds of Rejection**

Whether claims 1, 5, 10, 16, 40, 43-44, 46-47 and 51-52 are unpatentable under 35 USC §103 (a) as being obvious over Brandenburg et al. (U.S. Pat. Pub. No. 2003/0063072) in view of Erb et al. (U.S. Pat. Pub. No. 2004/0142703), in further view of Brown et al. (U.S. Pat. Pub. No. 2003/0055908) and in further view of Horvitz et al. (U.S. Pat. Pub. No. 2005/0132014).

Whether claim 2 is unpatentable under 35 USC §103 (a) as being obvious over Brandenburg in view of Erb, in further view of Brown, in further view of Horvitz and in further view of Kirkland et al. (U.S. Pat. Pub. No. 2005/0149622).

Whether claims 6-7 and 20 are unpatentable under 35 USC §103 (a) as being obvious over Brandenburg in view of Erb, in further view of Brown, in further view of Horvitz and in further view of Brewer et al. (U.S. Patent No. 5,611,040).

Whether claims 8 and 21 are unpatentable under 35 USC §103 (a) as being obvious over Brandenburg in view of Erb, in further view of Brown, in further view of Horvitz and in further view of Asokan et al. (U.S. Pat. Pub. No. 2005/0220079).

Whether claim 9 is unpatentable under 35 USC §103 (a) as being obvious over Brandenburg in view of Erb, in further view of Brown, in further view of Horvitz and in further view of Balasuriya et al. (U.S. Pat. Pub. No. 2005/0245240).

Whether claims 11 and 12 are unpatentable under 35 USC §103 (a) as being obvious over Brandenburg in view of Erb, in further view of Brown, in further view of Horvitz and in further view of Horvitz et al. (U.S. Pat. Pub. No. 2005/084082; hereinafter Horvitz II).

Whether claims 13-14 and 50 are unpatentable under 35 USC §103 (a) as being obvious over Brandenburg in view of Erb, in further view of Brown, in further view of Horvitz and in further view of Savage et al. (U.S. Pat. Pub. No. 2001/0009014).

Whether claim 15 is unpatentable under 35 USC §103 (a) as being obvious over Brandenburg in view of Erb, in further view of Brown, in further view of Horvitz and in further view of Suorsa et al. (U.S. Pat. Pub. No. 2002/0156831).

### **III. Arguments**

#### **New Ground(s) of Rejection Arguments**

#### **Rejection under 35 USC §101 because the claimed invention is directed to non-statutory subject matter**

#### **Claims 52-56**

Applicant respectfully submits that a computer readable storage medium would be understood by a person skilled in the art as being a physical device and a non-transitory medium. A “storage medium” does not equate to a “transitory signal.” Additionally, the specification in paragraph [0043] discloses that examples of such a medium may be illustrated in FIG. 6 as I/O devices 630 and 636 or mediums 632 and 638 which are clearly hardware elements in the exemplary system illustrated in FIG. 6. Accordingly, the computer readable storage medium as recited in claim 52 by definition cannot be a signal of any kind under the holding of *In re Nuijten*.

Additionally, MPEP §2106.01 I. provides:

“Data structures not claimed as embodied in computer-readable media are descriptive material *per se* and are not statutory because they are not capable of causing functional change in the computer. See, e.g., *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure *per se* held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory.” (*Emphasis Added*)

And

“When a computer program is recited in conjunction with a physical structure, such as a computer memory, USPTO personnel should treat the claim as a product claim.”

Applicant further respectfully submits that the computer usable program code embodied on the computer readable storage medium defines a structural and functional interrelationship between the computer useable program code and the physical storage medium within the meaning of MPEP §2106.01.

Furthermore, the U.S. Supreme Court in *Bilski v. Kappos* recently held:

“The machine-or-transformation test is not the sole test for patent eligibility under §101. The Court’s precedents establish that although that test may be a useful and important clue or investigative tool, it is not the sole test for deciding whether an invention is a patent-eligible “process” under §101. (*Bilski v. Kappos* 561 U.S. 8 (2010))

“This Court’s precedents establish that the machine-or-transformation test is a useful and important clue, an investigative tool, for determining whether some claimed inventions are processes under §101. The machine-or-transformation test is not the sole test for deciding whether an invention is a patent-eligible ‘process.’”

Accordingly, the U.S. Supreme Court has held that a process does not necessarily need to be tied to a machine-or-transformation to be statutory subject matter.

For all of the reasons discussed above, Applicant respectfully submits that independent claim 52 recites statutory subject matter and reconsideration and withdrawal of the Section 101 rejection of claim 52 is respectfully requested.

Claims 53-56 each depend directly from independent claim 52. Because of this dependency claims 53-56 include all of the features of claim 52. Therefore claims 53-56 are also respectfully submitted to recite statutory subject matter and reconsideration and withdrawal of the Section 101 rejection of claims 53-56 is respectfully solicited.

**Prior Appeal Brief Grounds of Rejection Arguments**

The prior Appeal Brief arguments are believed to address the same documents posed in the Examiner's Answer and are repeated here for completeness.

**Rejection under 35 U.S.C. §103(a) as being obvious over Brandenburg, Erb, Brown and Horvitz**

**Claims 1, 5, 10, 16, 40, 43-44, 46-47 and 51-52**

Applicant respectfully submits that this rejection under 35 U.S.C. §103 does not follow the MPEP §706.02(j) which states:

“To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.” *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985).

As discussed below, Applicant respectfully submits that Brandenburg Erb, Brown and Horvitz, whether considered individually or combined, fail to teach or suggest the essential elements needed for a *prima facie* rejection under §103.

Turning initially to the rejection of claim 1 under 35 USC §103(a) as being unpatentable over Brandenburg in view of Erb, in further view of Brown and in further view of Horvitz, claim 1 recites:

“determining at least one of whether the interrupting contact has and interrupt priority ranking associated with the interrupting contact in a contacts list of the communications device receiving the interrupt request that is higher than, or at least as high as, an interrupt priority ranking of each of the at least two contacts participating in the ongoing instant messaging conversation and whether an interrupting conversation has a higher priority compared to a priority of the ongoing instant messaging conversation set by at least one of the at least two contacts participating in the ongoing instant messaging conversation in their communications device...”

The Office Action on page 6 admits that Brandenburg fails to teach these features of the embodiment as recited in claim 1. Paragraph [0026] of Erb was cited for teaching the deficiencies of Brandenburg. Applicant respectfully submits that Erb also fails to teach the features of the embodiment of the present invention as recited in amended claim 1. Paragraph [0026] of Erb recites:

“[0026] The present invention relates to a system and method of controlling the delivery of an incoming call directed to a wireless communications device. When an incoming call directed to a wireless communications device is received, the location of the wireless communication device to which an incoming call is destined is determined. If the wireless communication device is not within a designated zone the incoming call is directed to the wireless communication device. If the wireless communication device is in a designated zone, the incoming call is handled based on specified criteria. In this manner, important meetings are not interrupted by incoming calls to wireless communications device unless the incoming calls take priority over the meetings...” (*emphasis added*)

Additionally, Erb in paragraph [0031] recites:

“[0031] The telephone system 20 is also programmed with the direction zones within one or both of the floors. The redirecting zones corresponding with designated areas or zones on the floor such as, for example, meeting and/or conference rooms where it is desired to control delivery of incoming calls to wireless communication devices carried by individuals in the designated areas...”

Accordingly, Erb determines whether to direct incoming calls to a wireless communications device based on a location of the device in a building (*emphasis added*). For example, if the communications device is in a designated zone or location, a meeting room for instance, the call is redirected so as to not interrupt the meeting unless the call takes priority over the meeting. Applicant respectfully submits that Erb does not teach or suggest determining whether the interrupting contact has an interrupt priority ranking associated with the interrupting contact in a contacts list of the communications device receiving the interrupt request that is higher than, or at least as high as, an interrupt priority ranking of each of the at least two contacts participating in the ongoing instant messaging conversation, as provided by claim 1 (*emphasis added*).

Brown discloses a method, system and program for controlling and specifying throughput of message requests in a messaging system. Paragraphs [0042] and [0043] of Brown were cited

in the Office Action dated 09/30/2009 in rejecting claim 1. Paragraph [0042] and [0043] of Brown recite:

[0042] A method, system and program for controlling and specifying throughput of message requests in a messaging system are provided. A "messaging session" preferably includes, but is not limited to, any combination of voice, graphical, video, and/or text messages, instant and/or delayed, transmitted between multiple users via a network. Messaging sessions may include use of chat rooms, instant messages, e-mail, IRC, conference calling and other network methods of providing a channel for users to communicate within. Further, messaging sessions may include communications such as voice, video, and text transmissions between multiple telephony devices.

[0043] A "message request" may include, but is not limited to, a request for a user to join a chat session, a request for a user to participate in an instant messaging session, a request for a user to join a telephone conversation, and other requests for user to participate in a messaging session. In particular, a message request may be transmitted to a receiving user according to the receiving user's user identification (ID), screen name, telephone number, e-mail address, network location, or other identifier by which a message request may be routed to the intended receiving user.

Applicant respectfully submits that Brown also does not teach or suggest the features of claim 1 recited above.

Horvitz discloses statistical models and methods to support the personalization of applications and services via consideration of preference encodings of a community of users. Paragraphs [0030] and [0031] of Horvitz were cited on pages 10 and 11 of the Office Action dated as mailed 09/30/2009. Paragraphs [0030] and [0031] of Horvitz recite:

[0030] Turning to FIG. 4, a communications prototype interface 400 is illustrated in accordance with an aspect of the present invention. As noted above, Bestcom systems employ best means communication methods based upon preferences of contactees and contactors. A Bestcom prototype is depicted as the interface 400 and has been used to explore formal use of expected utility as well as control via the specification of high-level cost-benefit rules. Considering cost-benefit rules control, the communications system and interface 400 considers context, including time of day and day of week, as well as the call priority (which can be interpreted as the cost of deferring a call) of individuals and groups of people. This interface 400 shows a group manager, showing people, grouped by organization and activity, including such groups as meeting in one hour from now, people whom I called today, and so forth.

[0031] Proceeding to FIG. 5, a diagram 500 depicts how prioritized calls or messages are routed to a receiver of the messages over time and in view of the cost of interruption of the prioritized messages. The high-level cost-benefit version of the communications system allows calls to be routed through to users, even when they are in

a mobile setting, but considering the current, dynamically changing cost of interruption, based on meetings, sensed observations (such as a microphone and conversation analysis system picking up conversation), and desktop activities (e.g., what is the user doing now), and settings, such as what is the user's Instant Messenger status set up to report (busy, away, etc.).

Accordingly, Applicant respectfully submits that none of the cited documents teach or suggest the features of claim 1, namely, determining whether the interrupting contact has an interrupt priority ranking associated with the interrupting contact in a contacts list of the communications device receiving the interrupt request that is higher than, or at least as high as, an interrupt priority ranking of each of the at least two contacts participating in the ongoing instant messaging conversation, as provided by claim 1 (*emphasis added*). Additionally, none of the documents of record teach or suggest determining whether an interrupting conversation has a higher priority compared to a priority of the ongoing instant messaging conversation set by at least one of the at least two contacts participating in the ongoing instant messaging conversation in their communications device, as provided by the embodiment of the present invention as recited in claim 1 (*emphasis added*).

For all of these reasons discussed above, Applicant respectfully submits that claim 1 is patentably distinguishable over Brandenburg, Erb, Brown and Horvitz, whether considered individually or combined, and reconsideration and withdrawal of the §103 rejection of claim 1 is respectfully requested.

With regard to the rejection of claims 5 and 10 under 35 U.S.C. §103(a) as being obvious over Brandenburg in view of Erb, in further view of Brown and in further view of Horvitz, these claims recite additional features which further patentably distinguish over Brandenburg, Erb, Brown, and Horvitz. Additionally, claims 5 and 10 depend directly from independent claim 1, and by virtue of that dependency, include all of the features of independent claim 1. Therefore, claims 5 and 10 are also respectfully submitted to be patentably distinguishable over Brandenburg, Erb, Brown and Horvitz for the same reasons as discussed with respect to claim 1. Reconsideration and withdrawal of the §103 rejection of claims 5 and 10 is respectfully solicited.

Turning now to the rejection of independent claims 16, 40, 47 and 52 under 35 U.S.C. §103(a) as being obvious over Brandenburg in view of Erb further in view of Brown and further in view of Horvitz, claims 16, 40, 47 and 52 recite similar features to independent claim 1.



Therefore, claims 16, 40, 47 and 52 are respectfully submitted to be patentably distinguishable over Brandenburg, Erb, Brown and Horvitz for the same reasons as discussed with respect to claim 1. Reconsideration and withdrawal of the §103 rejection of independent claims 16, 40, 47 and 52 is respectfully requested.

Regarding the rejection of claim 43, 44, 46 and 51 under 35 U.S.C. §103(a) as being obvious over Brandenburg in view of Erb in further view of Brown and in further view of Horvitz, claim 43, 44 and 46 depend directly from independent claim 40. Claim 51 depends directly from independent claim 47. Because of these dependencies, claims 43, 44 and 46 include all of the features of independent claim 40 and claim 51 includes all of the features of independent claim 47. Therefore, claims 43, 44, 46 and 51 are submitted to be patentably distinguishable over Brandenburg, Erb, Brown and Horvitz for the same reasons as claims 40 and 47. Reconsideration and withdrawal of the §103 rejection of claim 43, 44, 46 and 51 is respectfully requested.

**Rejection under 35 U.S.C. §103(a) as being obvious over Brandenburg, Erb, Brown  
Horvitz and Kirkland**

**Claim 2**

Claim 2 recites:

“selecting a precedence between interrupting the instant messaging conversation based on the interrupt priority ranking of the interrupting contact relative to the interrupt priority ranking of each of the at least two contacts and the interrupt priority ranking of the interrupting conversation relative to the interrupt priority ranking of the instant messaging conversation.”

Applicant respectfully submits that there is no teaching or suggestion in Brandenburg, Erb, Brown, Horvitz or Kirkland of the features of claim 2. The Office Action on page 15 admits that Brandenburg, Erb and Brown fail to teach the features of claim 2. Paragraph [0052] of Kirkland was cited for this deficiency. Applicant respectfully submits that paragraph [0052] of Kirkland merely teaches delaying the delivery of messages having a priority level below a certain threshold

and to maintain a database of delayed messages, or alternately to append the delayed messages to their appropriate queues. Applicant respectfully submits that Kirkland also does not teach or suggest selecting between the two criteria of interrupting an instant messaging conversation as provided by the embodiment of the present invention in claim 2.

Additionally, claim 2 depends directly from independent claim 1. Because of this dependency, claim 2 includes all of the features of independent claim 1. Applicant respectfully submits that Kirkland adds nothing to the teachings of Brandenburg, Erb, Brown and Horvitz so as to render independent claim 1 unpatentable. Therefore, for all of the reasons discussed, claim 2 is respectfully submitted to be patentably distinguishable over Brandenburg, Erb, Brown, Horvitz and Kirkland, whether considered individually or combined, and reconsideration and withdrawal of the §103 rejection of claim 2 is respectfully requested.

**Rejection under 35 U.S.C. §103(a) as being obvious over Brandenburg, Erb, Brown**

**Horvitz and Brewer**

**Claims 6-7 and 20**

Claims 6 and 7 depend directly from independent claim 1 and claim 20 depends directly from independent claim 16. Because of these dependencies, claims 6 and 7 include all of the features of independent claim 1, claim 20 includes all of the features of independent claim 16. Brewer was cited for disclosing a system and method for activating double-click applications with a single click comprising placing a window in the foreground and taking control of the mouse and keyboard (column 1, lines 56-62 of Brewer). Applicant respectfully submits that Brewer adds nothing to the teachings of Brandenburg, Erb, Brown and Horvitz so as to render independent claims 1 and 16 unpatentable. Therefore, claims 6, 7 and 20 are respectfully submitted to be patentably distinguishable over these asserted documents, and reconsideration and withdrawal of the 35 U.S.C. §103 rejection of claims 6, 7 and 20 is respectfully solicited.

**Rejection under 35 U.S.C. §103(a) as being obvious over Brandenburg, Erb, Brown**

**Horvitz and Asokan**

**Claims 8 and 21**

Claim 8 recites:

“sending an interrupt notification to any of the at least two contacts of the instant messaging conversation not contacted by the interrupting contact in response to interrupting the instant messaging conversation.”

Claim 21 recites similar features. The Office Action on page 19 admits that Brandenburg, Erb and Horvitz fail to disclose the features of claims 8 and 21 as recited above. Asokan was cited as teaching the deficiencies of Brandenburg Erb and Horvitz with reference to paragraph [0038] of Asokan. Applicant respectfully disagrees that Asokan teaches the features of claims 8 and 21 as recited above. Paragraph [0038] of Asokan recites:

“[0038] In some embodiments of the present invention, the packet-switched session may be a push-to-talk session that has been initiated by a user of the GSM/GPRS wireless terminal and that was established by a push-to-talk server. In response to receiving a circuit-switched page, the wireless terminal via, for example, a push-to-talk application that is running on the terminal, notifies the push-to-talk server that the push-to-talk session is to be temporarily suspended. This notification may be forwarded, for example, as either a text message or an e-mail message that is transmitted over SMS data bearer. The message may include, for example, an identifier associated with the cellular telephone (e.g., a push-to-talk client ID), identification of the reason the push-to-talk session is being suspended, the expected interval of the suspension, etc. If other participants in the push-to-talk session attempt to communicate with the wireless terminal over the push-to-talk session during the period when the wireless terminal has suspended the session, the push-to-talk server may notify those participants that the wireless terminal is temporarily unavailable...”

Accordingly, Asokan teaches sending a message that a push-to-talk session is temporarily suspended or unavailable. Applicant respectfully submits that sending an interrupt notification to any of the at least two contacts of an instant messaging conversation not contacted by the interrupting contact in response to interrupting the instant messaging conversation is patentably distinguishable from the notification that a push-to-talk session is temporarily suspended or

unavailable as taught by Asokan. Additionally, claim 8 depends directly from independent claim 1 and claim 21 depends directly from independent claim 16. Applicant respectfully submits that Asokan adds nothing to the teachings of Brandenburg, Erb, Brown and Horvitz so as to render independent claims 1 and 16 unpatentable as previously discussed. For all of these reasons, dependent claims 8 and 21 are respectfully submitted to be patentably distinguishable over the documents of record, and reconsideration and withdrawal of the Section 103 rejection of claims 8 and 21 is respectfully requested.

**Rejection under 35 U.S.C. §103(a) as being obvious over Brandenburg, Erb, Brown  
Horvitz and Balasuriya**

**Claim 9**

Claim 9 recites “resuming the instant messaging conversation in response to the interrupting conversation being completed.” The Office Action on page 21 admits that Brandenburg, Erb, Brown and Horvitz fail to disclose the features of claim 9. Paragraph [0013] of Balasuriya was cited for teaching this deficiency. Paragraph [0013] of Balasuriya recites:

“The disclosure provides an apparatus for and method of storing subsequent streaming media in a memory associated with a wireless communication device in response to receiving a communication request. For example, the disclosure provides for selectively storing at least one media of a multicast or unicast session in a local memory of a wireless communication device when a media streaming session is interrupted by an event, such as an incoming call. A user of the wireless communication device can resume playing the session from the local memory when interruption ends.”

Accordingly, Balasuriya teaches recording a streaming multicast or unicast session which can be played to the user after the interrupting event ends. Applicant respectfully submits that resuming an instant messaging conversation in response to the interrupting conversation being completed is patentably distinguishable from recording a streaming multicast or unicast session and then replaying the recorded session as taught by Balasuriya. Additionally, claim 9 depends

directly from independent claim 1, and by virtue of that dependency, includes all of the features of independent claim 1. Applicant respectfully submits that Balasuriya adds nothing to the teachings of Brandenburg, Erb Brown and Horvitz so as to render independent claim 1 unpatentable as previously discussed. For all of these reasons, claim 9 is submitted to be patentably distinguishable over Brandenburg, Erb, Brown, Horvitz and Balasuriya, and reconsideration and withdrawal of the Section 103 rejection of claim 9 is respectfully solicited.

**Rejection under 35 U.S.C. §103(a) as being obvious over Brandenburg, Erb, Brown  
Horvitz and Horvitz II**

**Claims 11 and 12**

Claim 11 depends directly from independent claim 1 and claim 12 depends directly from claim 11. Because of these dependencies, claims 11 and 12 include all of the features of independent claim 1. Applicant respectfully submits that Horvitz II adds nothing to the teachings of Brandenburg, Erb, Brown and Horvitz so as to render independent claim 1 unpatentable. Therefore, claims 11 and 12 are also submitted to be patentably distinguishable over Brandenburg, Erb, Brown, Horvitz and Horvitz II. Reconsideration and withdrawal of the 35 U.S.C. § 103 rejection of claims 11 and 12 is respectfully requested.

**Rejection under 35 U.S.C. §103(a) as being obvious over Brandenburg, Erb, Brown  
Horvitz and Savage**

**Claims 13-14 and 50**

Claim 13 recites:

“assigning an interrupt priority ranking to all contacts in an instant messaging contacts list in a user’s communications device.”

And claim 14 recites:

“wherein assigning an interrupt priority ranking comprises one of assigning the interrupt priority ranking by placing all contacts in a predetermined order in the contact list or auxiliary contact list on the user’s communications device and by assigning a contact priority number to each contact in the contact list.”

The Office Action on page 25 admits that Brandenburg Erb and Horvitz fail to disclose a system or method for managing interruptions to network users where an interrupt ranking is assigned to all users or ranking is performed by a predetermined order. Savage was cited for disclosing facilitating real-time, multi-point communications over the internet wherein a scheduler keeps track of and maintains the priority of each participant in each conference citing paragraph [0102] of Savage. Applicant respectfully submits that neither Savage nor the other documents of record teach or suggest the features of claims 13 and 14 as recited above. Additionally, claim 13 depends directly from independent claim 1 and claim 14 depends from claim 13. Because of this dependency, claims 13 and 14 include all of the features of claim 1. Applicant respectfully submits that Savage adds nothing to the teachings of Brandenburg, Erb, Brown and Horvitz so as to render independent claim 1 unpatentable. Accordingly, claims 13 and 14 are respectfully submitted to be patentably distinguishable over the cited documents for the same reasons as claim 1.

Claim 50 depends directly from independent claim 47. As a result of this dependency, claim 50 includes all of the features of independent claim 47. Applicant respectfully submits that Savage adds nothing to the teachings of Brandenburg, Erb, Brown and Horvitz so as to render independent claim 47 unpatentable. Accordingly, claim 50 is submitted to be patentably distinct over the documents of record for the same reasons as claim 47. Reconsideration and withdrawal of the Section 103 rejection of claim 50 is respectfully solicited.

**Rejection under 35 U.S.C. §103(a) as being obvious over Brandenburg, Erb, Brown  
Horvitz and Suorsa**

**Claim 15**

Claim 15 depends directly from independent claim 1, and because of that dependency, includes all of the features of independent claim 1. Suorsa was cited for disclosing automated provisioning of computing networks using a network database data model wherein Lightweight Directory Access Protocol (LDAP) verifies the access level of an agent. Suorsa adds nothing to the teachings of Brandenburg, Erb, Brown and Horvitz or the other documents of record so as to render independent claim 1 unpatentable. Therefore, claim 15 is submitted to be patentably distinct over Brandenburg, Erb, Brown, Horvitz and Suorsa as well as the other documents of record, and reconsideration and withdrawal of the Section 103 rejection of claim 15 is respectfully requested.

**Conclusion**

For the reasons discussed above, Applicant respectfully submits that the rejections standing in this application are improper. As discussed above claims 52-56 are respectfully submitted to recite statutory subject matter under 35 U.S.C. §101. Additionally, the Examiner has failed to establish a *prima facie* case of obviousness under 35 U.S.C. §103(a) with respect to claims 1, 2, 5-16, 20-21, 40, 43-44, 46-47, 50-52, 54 and 56. Therefore, Applicant respectfully submits these claims are in condition for allowance. Reversal of the rejection of these claims is respectfully requested.

Respectfully submitted,

Paul McMahan et al.  
(Applicant)

Date: Aug. 25, 2010

By: Charles L. Moore  
Charles L. Moore  
Registration No. 33,742  
Moore & Van Allen PLLC  
P.O. Box 13706  
Research Triangle Park, N.C. 27709  
Telephone: (919) 286-8000  
Facsimile: (919) 286-8199